



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 13-10

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 14-01-066; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

**Title of rule and other identifying information:** (Describe Subject)  
 Title of rule: Chapter 173-182 WAC Oil Spill Contingency Plan. Ecology proposes to update the definition of plan holder to include all persons listed in RCW 88.46.060 and update the definition of "umbrella plan" to ensure the term is used only when referring to non-profit corporations. Ecology also proposes to amend the rule so that owner/operators, if operating under a plan that covers multiple parties, are not required to comply with provisions of the rule that apply specifically to "plan holders."

<b>Hearing location(s):</b> See Attachment A	<b>Submit written comments to:</b> Name: Amanda Righi Address: PO Box 47600 Olympia, WA 98504-7600 e-mail <a href="mailto:Amanda.righi@ecy.wa.gov">Amanda.righi@ecy.wa.gov</a> fax (360)407-7288 by (date) <u>May 13, 2014</u>
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Date: <u>May 6, 2014</u> Time: <u>10:00 am</u>	<b>Assistance for persons with disabilities:</b> Contact <u>Spills Program</u> by <u>April 29, 2014</u> TTY (360) 407-7455
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**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Ecology proposes to update the definition of plan holder to include all persons listed in RCW 88.46.060 and update the definition of "umbrella plan" to ensure the term is used only when referring to non-profit corporations. Ecology also proposes to amend the rule so that owner/operators, if operating under a plan that covers multiple parties, are not required to comply with provisions of the rule that apply specifically to "plan holders."

**Reasons supporting proposal:** Inconsistencies between governing RCWs and Chapter 173-182 WAC create a confusing and potentially harmful situation in which Ecology is unable to adequately regulate oil spill contingency plans. RCW 88.46.060 and WAC 173-182-110 provide owner/operators, nonprofit corporations, Primary Response Contractors (PRC), and agents the opportunity to submit a contingency plan covering one or more vessels or facilities. The definition of "plan holder," however, only includes owner/operators and nonprofit corporations. Many of the provisions throughout the rule apply specifically to "plan holders." Some entities may not be subject to many of the rule requirements. RCW 88.46.060(3)(a) & (b) states that an "umbrella plan" may only be submitted by a non-profit entity. The rule language, however, uses the term to apply to all plan holders covering multiple entities, regardless of corporate structure. A contingency plan assures that, in the event of a spill, the vessel or facility will have adequate response equipment, local spill response teams, spill notifications, and response coordination with state and federal partners. A vessel operating without the important services and regulatory safeguards that a plan provides creates a threat to public health, safety and general welfare.

<b>Statutory authority for adoption:</b> RCW 88.46.060, RCW 90.46.050	<b>Statute being implemented:</b> Chapter 88.46 RCW and Chapter 90.46 RCW
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**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**DATE**  
4/1/2014

**NAME** (type or print)  
Polly Zehm

**SIGNATURE**

**TITLE**  
Deputy Director

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**OFFICE OF THE CODE REVISER**  
**STATE OF WASHINGTON**  
**FILED**

**DATE: April 02, 2014**  
**TIME: 11:08 AM**  
**WSR 14-08-098**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

N/A

**Name of proponent:** Department of Ecology

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Amanda Righi	Lacey, WA	(360) 407-7040
Implementation....Linda Pilkey-Jarvis	Lacey, WA	(360) 407-7447
Enforcement.....Linda Pilkey-Jarvis	Lacey, WA	(360) 407-7447

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

No. Explain why no statement was prepared.

Ecology did not prepare a Small Business Economic Impact Statement because the Regulatory Fairness Act (RFA; chapter 19.85 RCW) does not apply to this rule making. The proposed rule changes do not impose costs on businesses in an industry (RCW 19.85.030(1)(a)(i)).

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Amanda Righi  
Address: Department of Ecology  
300 Desmond Dr. SE  
Lacey, WA 98504-7600  
phone (360) 407-7040  
fax (360) 407-7288  
e-mail [amanda.righi@ecy.wa.gov](mailto:amanda.righi@ecy.wa.gov)

No: Please explain: Ecology did not prepare a Cost-Benefit Analysis or Least-Burdensome Alternative Analysis because the requirements in RCW 34.05.328 of the Administrative Procedure Act do not apply to this rule making. Under RCW 34.05.328(5)(b)(iv) and (v). The proposed rule changes are clarifications or updated language to be consistent with existing law (chapters 88.46 and 90.56 RCW).

**Attachment A: Public Hearings for the rule proposal for Chapter 173-182 WAC Oil Spill Contingency Plan**

**Hearing 1 –Lacey combined with a webinar: May 6, 2014**

**Time:** 10:00 AM - Presentation, question and answer session followed by the formal public hearing.

**Location:**

Department of Ecology  
Room R1G-07  
300 Desmond Drive SE  
Lacey, WA 98504

**Webinar:** Ecology is also offering this presentation, question and answer session and formal public hearing via webinar. Webinars are an online meeting forum that you can attend from any computer using internet access. To participate by phone, you will need to have a phone or computer with phone modem capability. For more information and instructions, go to

[http://www.ecy.wa.gov/programs/spills/community\\_outreach/sppr\\_webinar.html](http://www.ecy.wa.gov/programs/spills/community_outreach/sppr_webinar.html)

**Comments:** Ecology will accept comments at the Lacey location and through the webinar via phone at 1-877-668-4493/Participant Code 926 137 326. For more information and instructions, go to

[http://www.ecy.wa.gov/programs/spills/community\\_outreach/sppr\\_webinar.html](http://www.ecy.wa.gov/programs/spills/community_outreach/sppr_webinar.html)

**To join** the webinar click on the following link for more information and instructions

[http://www.ecy.wa.gov/programs/spills/community\\_outreach/sppr\\_webinar.html](http://www.ecy.wa.gov/programs/spills/community_outreach/sppr_webinar.html)